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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/770,728

02/02/2004

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11671/4

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05/21/2007

EXAMINER

NGUYEN, KHAI N

ART UNIT

PAPER NUMBER

2609

MAIL DATE

DELIVERY MODE

05/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/770,728

Applicant(s)

GREGERSON, RYAN N.

Examiner

Khai N. Nguyen

Art Unit

2609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on February 02, 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Drawings***

1. New corrected drawing in compliance with 37 CFR 1.121(d) is required in this application because Fig. 7 is missing the connection between the top box (personal computer) labeled PC 202 and contact database 110 (without this connection PC 202 cannot retrieve the telephone numbers from the contact database as described in the detailed description). Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 31-40 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims 31-40 are claimed for the computer program product comprising program code, and therefore these claims did not fall within at least one of the four enumerated categories of patentable subject matter recited in section 101 (i.e., process, machine, manufacture, or composition of matter).

It is not clear if a program code claimed is necessarily in executable form, i.e. that it is not a non-functional descriptive material. Whether functional or non-functional,

Art Unit: 2609

claims 31-40 fail to claim that the program is recorded on an appropriate computer readable medium so as to be structurally and functionally interrelated to the medium and permit the function of the descriptive material to be realized.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 5, 7-12, 15, 17-22, 25, 27-32, 35, and 37-42, are rejected under 35 U.S.C. 102(b) as being anticipated by Rodenbusch et al. (US Pub. Number 2002/0006193).

Regarding claim 1, 20, 21 and 31, Rodenbusch et al. disclose a system and method for distributing dialing function of the call centers (see Fig. 1 – 104a to 104n) among a plurality of networked personal computers (Fig. 1 – 110a to 110f, paragraph [0031] – lines 8-9) connected to a public switched telephone network (PSTN) through a gateway (Fig. 1 – 112), the method comprising:

within each personal computer: retrieving a different set of telephone numbers from a contact source (paragraph [0032], lines 1-2);

simultaneously dialing at least a subset of the telephone numbers using the gateway (paragraph [0032], lines 1-2);

establishing a voice connection with a first contacted party in response to the gateway indicating that the first contacted party has answered (paragraph [0032], lines 2-4);

receiving an indication from the gateway that a second contacted party has answered while the voice connection with the first party is still active (paragraph [0032], line 5 and Page 3 – paragraph [0032], lines 1-3); automatically selecting one of the networked personal computers that does not currently have an active voice connection (see Fig. 1 – 104a to 104n); signaling the selected personal computer to establish a voice connection with the second contacted party (Fig. 1 – 104a to 104n, and paragraph [0032], line 5 and Page 3 – paragraph [0032], lines 1-3).

Regarding claims 2, 12, 22 and 32, Rodenbusch et al. teach a method comprising suspending the dialing of additional telephone numbers for a personal computer with an active voice connection (paragraph [0032], lines 1-5 and Page 3 – paragraph [0032], lines 1-3).

Regarding claims 5, 15, 25 and 35, Rodenbusch et al. teach the details are selected from the group consisting of city of residence, state of residence [paragraph 0034], lines 2-5), and local time, and information about previous attempts to reach the first contacted party (paragraph [0046], lines 15-18).

Regarding claims 7, 17, 27 and 37, Rodenbusch et al. teach the contact source comprises a common database for all of the personal computers in the call center, and wherein the database includes a field to indicate whether a particular telephone number

Art Unit: 2609

has been previously retrieved by a different personal computer to prevent duplicate retrievals (paragraph [0046], lines 13-18).

Regarding claims 8, 18, 28, and 38, Rodenbusch et al. teach scrubbing the contact database for telephone numbers on a do-not-call list, duplicate telephone numbers, and telephone numbers with invalid area codes (Fig. 4a – 242, paragraph [0072], lines 6-8).

Regarding claims 9, 19, 29 and 39, Rodenbusch et al. teach the contact source comprises an affiliated website, the method further comprising receiving a real-time request from the affiliated website comprising the first contacted party's telephone number (Fig. 1 – 134, paragraph [0054], lines 2-11).

Regarding claims 10, 30 and 40, Rodenbush et al. teach monitoring a voice connection status of each networked personal computer in the call center (paragraph [0046], lines 13-18).

Regarding claim 11, Rodenbush et al. teach a method for deploying a call center using a plurality of inexpensive personal computers (Fig. 1), the method comprising:

coupling the plurality of personal computers to a public switched telephone network (PSTN) through a gateway (Fig. 1 – 112);

networking the plurality of personal computers to permit each personal computer to monitor a voice connection status of the other personal computers in the call center (paragraph [0010]);

connecting the plurality of personal computers to a contact source such that each personal computer may retrieve a different set of telephone numbers to dial (paragraph [0011]);

installing an auto-dialer on each of the personal computers for simultaneously dialing at least a subset of the retrieved set of telephone numbers for the personal computer using the gateway (paragraph [0011]);

furnishing each personal computer with communication software to establish a voice connection with a first contacted party in response to the gateway indicating that the first contacted party has answered (paragraph [0032], lines 2-4);

providing each personal computer with routing software to automatically transfer a call to a second party answered while the voice connection with the first contacted party is still active to one of the other personal computers that does not currently have an active voice connection (Fig. 1 – 104a to 104n, and paragraph [0032], line 5 and Page 3 – paragraph [0032], lines 1-3).

Regarding claim 41, Rodenbusch et al. teach a virtual call center (paragraph [0030], lines 1-3) comprising:

a plurality of remotely-located personal computers connected to a public switched telephone network (PSTN) through a gateway (Fig. 1 – 110a to 110f, paragraph [0031] – lines 8-9), each personal computer comprising:

a network interface for communicating with the other personal computers through a wide area network (Fig. 1);

Art Unit: 2609

an auto-dialer to retrieve a different set of telephone numbers from a database and simultaneously dial at least a subset of the retrieved telephone numbers using the gateway (Fig. 1 – 108a to 108n, paragraph [0011]);

a communication module to establish a voice connection with a first contacted party in response to the gateway indicating that the first contacted party has answered (paragraph [0032], lines 2-4)); and

a routing module to automatically transfer a call to a second party answered while the voice connection with the first contacted party is still active to one of the other personal computers of the virtual call center that does not currently have an active voice connection (Fig. 1 – 104a to 104n, and paragraph [0032], line 5 and Page 3 – paragraph [0032], lines 1-3).

Regarding claim 42, Rodenbusch et al. teach a distributed dialing apparatus comprising:

dialing means for retrieving a different set of telephone numbers from a contact source and simultaneously dial at least a subset of the retrieved telephone numbers using a gateway (paragraph [0011]);

communication means for establishing a voice connection with a first contacted party in response to the gateway indicating that the first contacted party has answered (paragraph [0032]); and

transfer means for passing a call answered by a second contacted party, while the voice connection with the first contacted party is still active, to a selected one of the networked personal computers that does not currently have an active voice connection



Art Unit: 2609

(Fig. 1 – 104a to 104n, and paragraph [0032], line 5 and Page 3 – paragraph [0032], lines 1-3).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-4, 6, 13-14, 16, 23-24, 26, 33-34, and 36 rejected under 35 U.S.C. 103(a) as being unpatentable over Rodenbush et al. (US Pub. Number 2002/0006193) as applied to claim 3 above, and further in view of Andrews et al. (US Patent Number 5,271,058).

Regarding claim 3, 6, 13, 16, 23, 26, 33, and 36, Rodenbush et al. teach a method of notifying a call center agent using the personal computer that the call has been answered by the first contact party (paragraph [0031], lines 8-11 and paragraph [0032], lines 1-8). However, Rodenbush et al. did not schedule the playing a greeting previously recorded by the call center agent to compensate for any delay by the call center agent in responding to the first contact party's answer.

In the same field of endeavor, Andrews et al. disclose a system and method for using a greeting previously recorded by the call center agent to compensate for any delay by the call center agent in responding to the first contact party's answer (column 12, lines 17-21). The advantage of Andrews's invention is the system plays the greeting

Art Unit: 2609

repeatedly until the call is handled and simultaneously playing the prerecorded greeting to the call center agent to allow the call center agent to make a seamless transition to speaking with the first contact party (column 12, lines 35-44).

Therefore, those skilled in the art will recognize, of course, it would have been obvious at the time of the invention was made to provide Rodenbush et al. with a greeting previously recorded by the call center agent to compensate for any delay in responding to an individual answers the telephone and make a seamless transition to speaking with the first contact party.

Regarding claims 4, 14, 24 and 34, Rodenbush et al. teach a method of providing call center agent with details about the first contacted party (paragraph [0046], lines 5-7), but did not teach to provide the details about the first contacted party during playback of the prerecorded greeting.

Again, as described above Andrews's invention provide a prerecorded greeting to compensate for any delay in responding to the first contact party's answer (column 12, lines 35-44).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate a prerecorded greeting to compensate for any delay in responding to the first contact party's answer, as taught by Andrews, and the Rodenbush method of providing the details about the first contacted party during the playback of the prerecorded greeting.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rodenbush et al. (U.S. Pub. 2003/0016812) teach monitoring performance of each set of telephone numbers by an agent thereby allowing the telephone numbers to be distributed in accordance with performance goals.

Rodenbush et al. (U.S. Pub. 2003/0198336) teach to detect related accounts to prevent additional contact attempts to the individual associated with the related accounts.

Khan (U.S. Patent 6,411,708) teaches a system to update a call list on a periodic basis.

Gechter et al. (U.S. Patent 5,036,535) teach a system for automatically distributing telephone calls placed over a network to agent stations connected to the network.

Bruno et al. (U.S. Patent 5,499,289) teach systems, methods and articles of manufacture for operating a single processing system to perform distributed telecommunications.

Fritz (U.S. Patent 6,944,281) teaches a call center transmits data to a communication subscriber.

Campbell et al. (U.S. Patent 7,106,850) teach a system and method for servicing multi-media customer communications to geographically distributed agents from multiple call center sites.

Art Unit: 2609

O'Neil (U.S. Patent 6,134,318) teaches a system and method for providing telemarketing services through a hypertext network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai N. Nguyen whose telephone number is (571) 270-3141. The examiner can normally be reached on Monday - Thursday 6:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Eisen can be reached on (571) 272-7687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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5/15/07